



Brussels, 12.7.2024
COM(2024) 295 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union on a new implementing protocol to the Fisheries Partnership Agreement with the Democratic Republic of São Tomé and Príncipe, and possible amendments to the Fisheries Partnership Agreement or a new text of a Sustainable Fisheries Partnership Agreement

{SWD(2024) 177 final} - {SWD(2024) 178 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Commission proposes to negotiate a new protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe¹, which would meet the needs of the EU fleet and be in line with Regulation (EU) No 1380/2013² on the Common Fisheries Policy (CFP). The Commission considers that the current Fisheries Partnership Agreement of 2007 could continue to apply and be implemented by a possible new protocol that would incorporate the necessary adaptations to ensure compliance with Regulation (EU) No 1380/2013, thus ensuring continuity of relations with that country. If, however, the partner required the amendment of the agreement or the negotiation of a new Sustainable Fisheries Partnership Agreement in the context of negotiations on a new protocol, that possibility should be provided for.

• Consistency with existing provisions in the policy area

The current Fisheries Partnership Agreement (FPA) between the European Union and São Tomé and Príncipe was signed on 30 October 2007 and entered into force on 29 August 2011. The current 5-year implementing protocol to the FPA³ entered into application on 19 December 2019 and will expire on 18 December 2024. It sets the fishing opportunities provided to the EU fleet and the corresponding financial contribution paid by the EU and the shipowners. The annual EU public financial contribution paid to São Tomé and Príncipe, for the last year of application, amounts to EUR 840 000, of which EUR 440 000 is earmarked for sectoral support.

The FPA with São Tomé and Príncipe provides fishing opportunities targeting tuna and highly migratory species for EU vessels from three Member States (Spain, France and Portugal). The EU already has a well-developed network of bilateral Sustainable Fisheries Partnership Agreements (SFPAs) in West and Central Africa, namely with Mauritania, Cabo Verde, Senegal, The Gambia, Guinea-Bissau, Liberia, Côte d'Ivoire and Gabon.

SFPAs contribute to promoting the objectives of the Common Fisheries Policy internationally by ensuring that EU fishing activities outside EU waters are based on the same principles and standards as those applicable under EU law. In addition, SFPAs strengthen the EU's position in international and regional fishing organisations, in particular in the International Commission for the Conservation of Atlantic Tunas (ICCAT), the body set up under international law for conserving and managing highly migratory species in the region. Finally, SFPAs are based on the best available scientific advice and contribute to the improvement of compliance with international measures, including combating illegal, unreported and unregulated (IUU) fishing.

• Consistency with other Union policies

The negotiation of a new protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe is in line with the EU's external action in relation to African, Caribbean and Pacific

¹ OJ L 205, 7.8.2007, p. 35.

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

³ OJ L 333, 27.12.2019, p. 1.

(ACP) countries, and in particular with the EU's objectives on respecting democratic principles and human rights.

The promotion of decent work is ensured by the expected negotiation of a social clause in line with ILO Convention C188 for workers from the partner country to be employed by EU vessels.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is the Treaty on the Functioning of the European Union, Part Five – The Union's External Action, Title V – International Agreements, Article 218, which sets out the procedure for negotiating and concluding agreements between the Union and third countries.

- **Subsidiarity (for non-exclusive competence)**

Not applicable; exclusive competence.

- **Proportionality**

The proposal is proportionate to the objective of establishing a legal, environmental, economic and social governance framework for fishing activities carried out by EU vessels in third-country waters, as set out in Article 31 of Regulation (EU) No 1380/2013 establishing the Common Fisheries Policy.

- **Choice of instrument**

The choice of instrument stems from the application of Article 218(3) and (4) TFEU.

3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex post* evaluations / fitness checks of existing legislation**

The Commission carried out an *ex post* evaluation of the current protocol to the FPA with São Tomé and Príncipe and an *ex ante* evaluation of a possible new protocol. The report of that evaluation is public⁴.

The evaluation concluded that the EU tuna fishing sector has a strong interest in carrying out its activity in São Tomé and Príncipe and that a new protocol would help strengthen monitoring, control and surveillance and contribute to improved governance of fisheries in the region.

- **Stakeholder consultations**

Member States, industry representatives and international civil society organisations, as well as the fisheries administration and civil society representatives of the EU and of São Tomé and Príncipe, were consulted as part of the evaluation. Consultations also took place in the framework of the Long Distance Fleet Advisory Council.

⁴ <https://op.europa.eu/en/publication-detail/-/publication/55fcd1d2-132e-11ef-a251-01aa75ed71a1>.

- **Collection and use of expertise**

The evaluations carried out involved independent experts in the field.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The negotiating directives set out in the annex to the proposal for a decision recommend including a clause on the consequences of violations of human rights and democratic principles.

4. BUDGETARY IMPLICATIONS

The budgetary impact of a new protocol will derive from the payment of a financial contribution to São Tomé and Príncipe. The expected annual amounts for commitments and payment appropriations are determined under the annual budgetary procedure in a manner compatible with the 2021-2027 Multiannual Financial Framework, including the reserve line 30.020200 for proposals not having entered into force at the beginning of the year⁵.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The negotiations should begin in the third quarter of 2024 in order to limit the interruption of fishing activities when the current implementing protocol to the FPA expires on 19 December 2024.

- **Detailed explanation of the specific provisions of the proposal**

The Commission recommends that:

- the Council authorise the Commission to open and conduct negotiations for the conclusion of a new protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe, with the possibility of negotiating amendments to the Agreement or the text of a new Sustainable Fisheries Partnership Agreement which would replace the existing one;
- the Commission be nominated as the EU negotiator to this end;
- the Commission conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;
- the Council approve the negotiating directives annexed to this Recommendation.

⁵ See Article 20 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28).

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened for the conclusion of a new implementing protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe.
- (2) Negotiations should also be opened with a view to amending the Fisheries Partnership Agreement or to establishing a new Sustainable Fisheries Partnership Agreement, should this prove necessary for the successful conclusion of the negotiations,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, a new implementing protocol to the Fisheries Partnership Agreement with the Democratic Republic of São Tomé and Príncipe⁶.

The Commission is also authorised to negotiate, on behalf of the Union, amendments to the current FPA or a new Sustainable Fisheries Partnership Agreement with the Democratic Republic of São Tomé and Príncipe, should this prove necessary for the successful conclusion of the negotiations.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Council Working Party on Fisheries Policy.

⁶ OJ L 205, 7.8.2007, p. 35.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*